

Attachment to Independent Case Review Report
For CDRU # 1029 Case file # 95-HQ-300370.

Material Examiner Malone (RO)

Remarks:

CAM 598

INDEPENDENT CASE REVIEW REPORT

Independent Review conducted by: STEVE ROBERTSON

Area(s) of Expertise: HAIR AND FIBERS

Review commenced at: 10:30A (Time), 9/13/99 (Date)

File #: 45-300370

Laboratory #(s): 10924020

Examiner(s) & Symbols

	Reviewed	Not Reviewed		Reviewed	Not Reviewed
<u>RQ</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>TT</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>YC</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>QF</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>AA</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Materials Reviewed

Trial testimony transcript(s) of: Michael Malone

Testimony Date(s): Sept 30, 1992 Pages: 302-330
Feb 9, 1993 1294-1316

Laboratory Report(s):

Laboratory Number: 10924020 Date: Feb 7, 1992

Laboratory Number: _____ Date: _____

Laboratory Number: _____ Date: _____

Examiner Bench Notes of: RQ

Laboratory Number: 10924020

Laboratory Number: _____

Laboratory Number: _____

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Initials: SR

CRM 598A

Was any other material reviewed? Yes No

If yes, please identify and/or describe the material: SUBMITTING AGENCY WORK LETTER

DATED Sept 23, 1991

Results of Review

File #: 95-300370

Item or Specimen # Reviewed: Q1-Q18, Q27-Q37

K3 K4 K6 K7

Review of Laboratory Report(s) and Bench Notes:

Note: Numbered comments are required below or on additional pages for any "No" or "Unable to Determine" Responses

- 1) Did the examiner perform the appropriate tests in a scientifically acceptable manner, based on the methods, protocols, and analytic techniques available at the time of the original examination(s)?
 Yes No Unable to Determine
- 2) Are the examination results set forth in the laboratory report(s) supported and adequately documented in the bench notes?
 Yes No Unable to Determine

Review of Testimony:

Note: Numbered comments are required below or on additional pages for any "No" or "Unable to Determine" Responses

- Transcript not available.
- 3) Testimony consistent with the laboratory report(s)? Yes No
- 4) Testimony consistent with the bench notes? Yes No
- 5) Testimony within bounds of examiner's expertise? Yes No

← changed to no
12/00

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Initials SM

Comments

(Set forth by above question #, if applicable.
Use "Additional Comments" Sheet, if needed)

#1. DOCUMENTATION IS INSUFFICIENT TO DETERMINE IF TESTS WERE
DONE IN A SCIENTIFICALLY ACCEPTABLE MANNER.

*2. THE LAB REPORT AND TESTIMONY STATE A HAIR IN Q18 IS A MATCH
TO THE VICTIM'S PUBIC HAIR K6. THE EXAMINATION NOTES SHOW
A Q18 PUBIC HAIR " = " K7. K7 IS THE VICTIM'S HEAD HAIR.
APPARENTLY, CONFIRMATION OF A HAIR MATCH WAS CONDUCTED BY A
SECOND EXAMINER (QUALIFIED?). THE CONFIRMATION DOES NOT IDENTIFY
WHICH HAIR WERE EXAMINED BY THE SECOND EXAMINER.

#3. DURING TESTIMONY GIVEN ON SEPT 30, 1992 AND ON FEB 9, 1993
RQ TALKS ABOUT A MIXED RACE HEAD HAIR FROM Q33 THAT
DOESN'T MATCH THE VICTIM OR THE SUSPECT. THIS Q33 HAIR IS
NOT MENTIONED IN THE LAB REPORT.

Review completed at: 12:00P (Time), 9/13/99 (Date)

Total time spent conducting review (to nearest 1/4 hour): 2 hours

I hereby certify that I conducted this review in an independent, unbiased manner and that the results of my review are fully documented on this report consisting of a total of 3 pages.

Steve Roberts 9-13-99
(Signature) (Date)

PLEASE SEE PAGE 4 FOR ADDITIONAL COMMENTS CONCERNING
QUESTION #3.

Steve Roberts
11-14-2000

PLEASE SEE PAGE 5 FOR ADDITIONAL COMMENTS CONCERNING
QUESTION #4.

Steve Roberts
11-17-2000
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Initials SR

Additional Comments
(Set forth by question #, if applicable)

File #: 95-300370

b6
b7C

On November 14, 2000 Mr. [redacted] requested a clarification on the review previously performed by me on this case on September 13, 1999. The clarification deals specifically with question #3: "Testimony consistent with the laboratory report(s)?" and my assessment that "No" it did not, and with question #4: "Testimony consistent with the bench notes?" and my assessment that "Yes" it did.

The laboratory report, examiner's notes and transcripts from testimony by the examiner on 9/30/92 and on 2/9/93 were again reviewed. My assessment that the testimony was not consistent with the laboratory report and is consistent with the bench notes remains unchanged due to the following reasons:

1. the laboratory report states no hairs like the suspect's hairs were found in Q27-Q37. This includes item Q33, debris recovered from the victim's leg by a [redacted]

b6
b7C

2. the examiner's notes for item Q33 are "Q33- 1 dk b HH CC = K7 K3". Item K7 is the victim's head hair and item K3 is the suspect's head hair. The report does not include the information that a hair not like the victim or the suspect was recovered from the victim in item Q33, but this hair is clearly documented in the notes.

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Initials: SMH

11-14-2000

Additional Comments
(Set forth by question #, if applicable)

File #: 95-300370

b6
b7C

On November 17, 2000 [redacted] requested a clarification concerning question #2 and question #4 on the review previously performed by me on this case on September 13, 1999. The clarification is about the lab report and the testimony (twice) stating that a pubic hair (Q18) recovered in debris from the suspect's pants microscopically matches the victim's pubic hair, while the examination notes are marked "Q18- 1 b PH CO (nat.root,telogen) = K7(v)". The question is: since the lab report and testimony do not agree with the notes on this particular hair comparison, shouldn't question #4 be marked "NO"?

The laboratory report, examiner's notes, transcripts from both proceedings and the confirmation note were again reviewed. It is probable that RQ confused K6 (victim's pubic hair) with K7 (victim's head hair) and wrote the wrong K number in his notes for Q18. The likelihood of this transcription error is increased as the hair match was apparently confirmed by another examiner.

My assessment of question #4: "Testimony consistent with the bench notes?" will be changed to "NO" to reflect this apparent transcription error.

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Initials: SWA

11-17-2000